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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/794,332	02/03/97	CHAMBERS	W 623-00027

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ANDRUS SCEALES STARKE & SAWALL
100 EAST WISCONSIN AVENUE SUITE 1100
MILWAUKEE WI 53202-4178

EXAMINER

ROWAN, K

ART UNIT	PAPER NUMBER
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3643

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DATE MAILED: 09/13/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/794,332

Applicant(s)

CHAMBERS

Examiner

Kurt Rowan

Group Art Unit

3643



☒ Responsive to communication(s) filed on Jun 28, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 2-18 and 26-38 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 2, 27, and 28 is/are allowed.

☒ Claim(s) 3-18, 26, and 29-38 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-5, 16, 29-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman.

The patent to Freeman, in reference to claim 3, shows a fishing lure in Fig. 1 having a generally planar upper surface and an opposite, second generally planar bottom surface as shown in Fig. 1. In reference to claim 4, Freeman also shows the head having a thickness greater than that of the legs due the double layer of material such as folded back flap 15. the upper surface of the head and the upper surface of the legs lying in a common plane. In reference to claim 5, Freeman shows a fishing lure in Figs. 1 and 4 having a head portion 42 and first and second legs 41 which are generally planar on the upper and lower surfaces. Freeman shows the leg portions having

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increasing widths in the forward to rearward direction such that at least a portion of each leg located toward the leg rearward end has a width greater than a portion of each leg located toward the leg forward end. In reference to claim 16, Freeman shows the bottom surface of each leg defining a shoulder adjacent the rear of the head. In reference to claim 29, Freeman shows all of the elements recited in the embodiment of Fig. 4 with the exception of the legs are separated from each other by the open rearward end of the opening. Fig. 4 shows the legs touching. However, Fig. 1 of Freeman shows the legs separated by the rearward end of the opening. It would have been obvious to separate the legs of fig. 4 by the width of the opening as shown in Fig. 1 since the function is the same. In reference to claim 31, 32 Freeman shows in Fig. 2 a curved portion of the inner leg and a linear portion extending rearwardly from the curved portion so that the curved portions of the legs define an opening 14 shown in Fig. 1. In reference to claim 33, Freeman shows an outer edge of each leg defining a convex curve in Fig. 2 that extends from the leg rearward end forwardly to a location adjacent the rearward end of the head. In reference to claim 34, Freeman shows outwardly curved inner edges in Fig. 2 which cooperate to form or define the opening. The inner edges of Freeman can be considered to be curved outwardly since the edges curve outwardly away from each other to the left of where they meet in Fig. 2. In reference to claim 35, Freeman shows the point where the outwardly curved inner edge of each leg terminates as the point where the curved edges meet as the point of maximum width of each leg. In reference to claim 36, Freeman shows a linear inner edge extending between the location of maximum width and the rearward end of the leg. In reference to Fig. 37, Freeman shows the

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legs defining an outwardly curved outer edge extending rearwardly from the head in Fig. 2. In reference to claim 38, Freeman shows the outwardly curved outer edge of each leg defining a continuous arcuate outer edge extending from the rearward end of the head to the rearward end of each leg in Fig. 2. The claims drawn to the shape of the leg should recite the concepts that the curved section of the legs are concave and mirror images. Also, the straight section of the legs are non-parallel with the distance between the legs increasing in the direction toward the end of the legs and that the leg's straight sections are mirror images of each other.

4. Claims 17-18, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adam in view of Freeman for substantially the same reasons stated in the last Office Action.

Claim 17 has been amended to recite that each leg has a greater width at a location spaced rearwardly from the head than at a location adjacent the head. The patents to Adam and Freeman show fishing lures. Adam has been discussed in the first Office Action and shows the legs having a thickness less than the head and the outer edges of the legs have a generally convex shape. Freeman shows a lure with a head portion 42 in Fig. 4 and two legs 43 with each leg having a first width adjacent the head and a second width greater than the first width at a location spaced rearwardly therefrom. In reference to claim 18, 26 Adam shows all of the elements recited with the exception of the widths which is shown by Freeman. It would have been obvious to provide Adam with leg widths as shown by Freeman since merely substitution of one leg shape for

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another is contemplated. In reference to claim 28, Freeman shows an arcuate opening 14 located toward the head in Fig. 1.

5. Claims 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman as applied to claim 5 above, and further in view of Koonz et al.

The patents to Freeman and Koonz show fishing lures. Freeman has been discussed above.

Koonz shows a lure with a plurality of cylindrical nipples 27 as shown in Fig. 6 projecting upwardly as shown in Fig. 7. In reference to claims 6, 8, Freeman does not show a plurality of nipples. It would have been obvious to provide Freeman with cylindrical nipples as shown by Koonz to increase light reflection to attract more fish. Although Koonz shows the nipples 27 projecting upwardly, it would have been obvious to project them downwardly to increase light reflection. Koonz shows projecting the corresponding partial cylindrical lens 20-21 both upwardly and downwardly in Fig. 2. See column 2, lines 9-20. In reference to claims 7, 13 Koonz shows the nipples in transverse rows to the longitudinal axis of the lure. In reference to claim 10, Koonz shows the upper surface of the head 10 having a plurality of cylindrical nipples. In reference to claims 11-12, it would have been obvious to provide the legs of Freeman with a plurality of cylindrical nipples to reflect fish attracting light. Applicant should recite that the nipples terminate in a planar surface at a right angle to the axis of the cylinder. The axis of the cylinder is perpendicular to the plane of the lure head and legs. The prior art to Koonz and Adam show cylinders that terminate in a rounded edge such as the shape of a sphere.

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Allowable Subject Matter

6. Claims 2 and 27-28 are allowed.

Response to Arguments

7. Applicant's arguments filed June 28, 1999 have been fully considered but they are not persuasive. Applicant has amended claim 29 to include an opening having a closed forward end and an open rear end with the closed forward end being defined by a smooth continuous edge. Freeman et al. shows an edge defined by cuts 14 in Fig. 1. Freeman also shows other embodiments of the bait in Figs. 2-4 but does not label the pair of cuts. Freeman clearly shows the edge as being continuous. Note the opening in the embodiment of Fig. 4. The edge can also be considered as smooth since no frame of reference is given as to what "smooth" is. The edge of Freeman is made up of two straight lines in Fig. 3 and Fig. 4. A straight line edge is smooth since there are no serrations along the edge. The same also applies to curved edges shown by Freeman in Fig. 1. Fig. 4 of Freeman also shows the width of the legs increasing in a forward to rearward direction. The maximum width of each leg is rearward of the opening. Fig. 4 of Freeman shows the legs touching at the rearward end of the opening. However, Fig. 1 of Freeman shows the legs separated from each other by the open rearward end of the opening. It would have been obvious to provide the embodiment of Fig 4 with the opening shown in Fig. 1 since the function is the same. Freeman shows allows water to flow and cause the legs to twist and turn as disclosed in column 2, lines 59-64. Claim 17 recites an outwardly curved smooth continuous arcuate portion

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which is shown by Freeman in Figs.2, 4. The claim does not recite the concavity of the curvature however. The present invention shows a concave curvature with mirror image portions. Freeman shows convex curvatures.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

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The examiner can normally be reached on Monday-Thursday
from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application
or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of
this application or proceeding should be directed to the
receptionist whose telephone number is (703) 308-1113.

Kurt Rowan

KURT ROWAN

PRIMARY EXAMINER

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Sept. 11, 1999